

REMARKS

Claims 1 and 2 are pending in this Application. Claims 1 and 2 have been amended. Claim 3 and claim 4 have been added. Claims 1-4 are subject to continued examination.

Obviousness Rejection

Claims 1 and 2 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Titus et al. (US 4,808,650)(hereinafter "Titus"). Titus teaches hydrogen and fluorine substituted dibenzylidene sorbitol compounds. The rejection of the Office Action indicates would have been obvious to one skilled in the art to substitute methyl in place of hydrogen.

The prior art does not provide the requisite teaching or suggestion to engage in the modifications necessary to reach the invention as claimed. The cited art indicates that the use of a mono-fluoro and di-fluoro compositions are expected to provide worse clarification than higher fluorine residue compositions. The Titus reference teaches in favor of tetra-fluoro substituted fluoro compounds, and the claims as amended specifically avoid tetra-fluoro substituted compounds.

Titus teaches a synergy between fluoro groups when the "additive has two fluorinated benzylidene groups on the sorbitol moiety". Column 3, lines 1-2.

Titus specifically advocates a tetrafluoro compound:

"It is evident from the above analysis of the reported and observed data that fluorine atoms in the 3 and 3' positions make a major contribution to clarity, and act synergistically with fluorine atoms in the 4 and 4' positions to provide a tetrafluoro additive having the highest clarity heretofore reported. This result is wholly unexpected and could not have been predicted from the data in the art".

Titus, column 5, lines 14-20 (emphasis supplied).

Applicants note that MPEP § 2143 specifically states that obviousness can only be established by modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the reference itself or in the knowledge generally available to one of ordinary skill in the art. Moreover, the prior art must be considered for everything it teaches – including portions that would lead away from the claimed invention. Accordingly, MPEP Section 2145 recognizes that proceeding contrary to accepted wisdom is evidence of nonobviousness.

Applicants respectfully point out that the instant structure contains at most 2 fluorine atoms in the R₁-R₄ positions. However, clarity results which are comparable or better than the tetrafluoro additive of Titus are achieved. Thus, the present invention, as claimed, is contrary to the teachings of the Titus by the use of a lower number of fluorines, with unexpected results.

The chemical arts are very unpredictable, and it is not feasible to simply assume that a person of skill in the art would be motivated to substitute methyl for fluorine or hydrogen as taught by Titus (see column 2, lines 60-65), when there is no express teaching in the Titus reference to suggest making such a change. This is an incorrect "hindsight" analysis.

The clear teaching in Titus is that in order to achieve low haze values a tetra-fluoro composition should be used rather than a di-fluoro composition. The present invention is contrary to these teachings. Thus, it is respectfully submitted

that the present invention provides unexpected and non-obvious structural compositions, providing unexpected levels of clarity.

In light of the above, it is respectfully submitted that the obviousness rejection should be withdrawn.

Conclusion:

For the reasons set forth above, it is respectfully submitted that all claims now stand in condition for allowance.

Further, the Examiner is requested to consider the claims of commonly owned and pending applications below, as they may or may not be relevant to obviousness type double patenting:

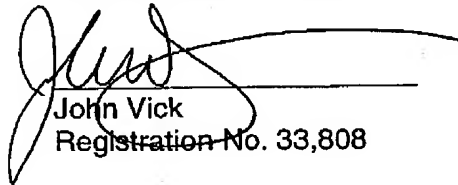
10/243,247
10/337,574 (granted as U.S. Patent 6,734,238)
10/337,764
09/816,965 (US Patent 6,300,525)

Should any issues remain after consideration of this Amendment and accompanying Remarks, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

To any extent required for acceptance of this paper, an extension of time is hereby requested.

In the event that there are additional fees associated with the submission of these papers (including extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

Respectfully submitted,



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